

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2950 – SB 2904

March 8, 2010

SUMMARY OF AMENDMENT (014919): Changes the written oath required for real property transfers executed by quitclaim deed, from an oath requiring statement of the actual consideration or the value of the property transferred, to an oath requiring statement of the actual consideration exclusively. Authorizes the register of deeds to request documentation in determining the consideration or value. Deletes Section 2 of the original bill that effectively provided recordation tax exemptions for real property transfers made between lineal relatives or siblings. Deletes Section 3 of the original bill that removed current law declaring that recordation tax on transfers of real property executed by quitclaim deed shall be based only on the actual consideration given for the conveyance.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue - \$20,925,000

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Increase State Revenue – Exceeds \$100,000

Assumptions applied to amendment:

- This amendment effectively reconciles the language of the proposed written oath with current recordation tax law regarding real property transfers executed by quitclaim deed.
- Deleting Section 2 of the original bill removes the recordation tax exemption for lineal relatives or siblings which accounted for the fiscal impact estimated for the original bill.
- According to the Department of Revenue, any decrease to state revenue attributable to the remaining recordation tax exemption for real property transfers executed to clarify boundaries is considered not significant.
- Given that this bill as amended, requires property owners who transfer property via quitclaim deed to declare the actual consideration for the transfer under oath, and because any false or misleading statement of consideration under oath would constitute an act of perjury, and because register of deeds will be authorized to request documentation used to determine the consideration or value, it is reasonable to expect

that this bill as amended will reduce fraud associated with property transfers where the value or consideration is misstated or unrepresented under current law.

- Any such increase to state revenue resulting from a subsequent reduction of fraud is dependent upon several unknown factors such as the extent of fraud statewide under current law, the extent of consideration paid for properties where fraud is committed, the extent to which this legislation would remedy the fraud, and the extent to which parties to property transfers via quitclaim deed will commit other frauds against the state applicable to proper assessment of recordation tax. As a result, determining a precise fiscal estimate for this bill is difficult.
- However, the increase to state revenue is reasonably estimated to exceed \$100,000 per year statewide. This estimate assumes that each of the 95 counties will collect incremental recordation tax revenue on at least two additional parcels each year with an average consideration increase of \$142,250. The estimate uses the current recordation tax pursuant to Tenn. Code Ann. § 67-4-409(a), which is 37 cents per \$100 $\{(95 \text{ counties} \times 2 \text{ parcels} \times \$142,250 \text{ consideration}) / \$100\} \times \$0.37 = \$100,002\}$.

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/rnc